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Note verbale dated 26 May 2010 from the Permanent Mission of Brazil to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Brazil to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to enclose herewith an additional report on the measures taken by the Government of Brazil regarding the implementation of resolutions 1718 (2006) and 1874 (2009) (see annex). In the light of the Panel of Experts' quarterly report on the implementation by Member States of resolutions 1718 (2006) and 1874 (2009) (S/AC.49/2010/COMM.17), the annexed report seeks to clarify and expand the information contained in the previous reports submitted by the Permanent Mission of Brazil via its notes verbales dated 4 December 2006 (S/AC.49/2006/35) and 28 August 2009 (S/AC.49/2009/40).

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Annex to the note verbale dated 26 May 2010 from the Permanent Mission of Brazil to the United Nations addressed to the Chairman of the Committee

1. Through its previous reports (S/AC.49/2006/35 and S/AC.49/2009/40), the Government of Brazil informed the Security Council Committee established pursuant to resolution 1718 (2006) that the pertinent provisions of resolutions 1718 (2006) and 1874 (2009) were incorporated into Brazilian law and made mandatory for all Brazilian authorities by Presidential Decrees 5,957 of 7 November 2006 and 6,935 of 12 August 2009. The information contained in the current report seeks to clarify and expand on how the provisions of those resolutions have been put into practice, with a view to ensuring that the Committee has in its possession all the information required on the implementation of the said resolutions by Brazil.

2. With regard to the prevention of the direct or indirect supply, sale or transfer of luxury goods to the Democratic People's Republic of Korea, export monitoring and controls are the responsibility of the Ministry of Finance, through the Secretariat of the Federal Revenue, as established by Law 9,649 of 27 May 2004 and Decree 37 of 18 November 1966. All information related to international transactions is contained in the Integrated External Trade System (SISCOMEX), which allows for the electronic monitoring of each operation and its corresponding authorization. Transgressors are subject to several penalties, established, inter alia, in the Brazilian Criminal Code (Decree 2,848 of 7 December 1940). The Department of Federal Police, which reports to the Ministry of Justice, also has responsibilities in this area: it is charged, in cooperation with the Armed Forces, with monitoring border zones and combating smuggling.

3. In relation to the prevention of transfers to or from the Democratic People's Republic of Korea of arms and related materiel, exportation of material for military use is subject to the General Guidelines of the National Policy for Export of Material for Military Use. These guidelines and Decree 3,665 of 20 November 2000 charge the Army Command with establishing the necessary arrangements for the monitoring of activities involving controlled products (production, repair, maintenance, industrial use, handling, recreational use, collection, export, import, customs clearance, stockpiling, trade and transport). The controls established by the General Guidelines allow for the full implementation of United Nations arms embargoes, including those referring to the Democratic People's Republic of Korea.

4. In order to be allowed to export material for military use, Brazilian companies must follow the normative parameters established by the General Guidelines of the National Policy for Export of Material for Military Use. When a commercial opportunity in this field is identified, the interested firm must request authorization to begin preliminary negotiations via the Ministry of External Relations. The request must specify the products involved, their approximate value and their destination. Should the authorization be granted and the negotiations for sale be successful, the seller must then submit a request for export authorization, including a detailed list of products and/or services involved in the transaction, specifying quantities, overall price, means of payment and estimated delivery date. The importer — be it a private company or a government — must present an end-user certificate, stating that the products will not be re-exported without prior authorization of the Government of Brazil. The Ministry of External Relations is responsible for reviewing the request and submitting a report to the Ministry of Defence on the political aspects of the

proposed transaction, including the existence of relevant sanctions. The Ministry of Defence then makes a final decision regarding the request for export authorization.

5. Regarding the prevention of transfers to or from the Democratic People's Republic of Korea of financial transactions, technical training, advice, services and assistance related to weapons of mass destruction, the Federal Constitution and international agreements in force prohibit the development and production of weapons of mass destruction in Brazil. Therefore, national export controls apply to weapons of mass destruction-precursor goods and technologies, the export, re-export, transit and transport of which are controlled to ensure their use for exclusively peaceful ends.

6. The General Coordination Office for Sensitive Goods, in the Ministry of Science and Technology, is the body responsible for controlling the export of sensitive goods, as established in the Ministry of Science and Technology's Directive 49 of 16 February 2004. The General Coordination Office authorizes, when appropriate, the transfer of items listed on the Sensitive Goods Lists and implements control procedures in their regard, in consultation with other relevant government agencies, including the Ministry of External Relations. This process is carried out though the SISCOMEX, which allows for the detection of unauthorized attempts at re-export. Penalties for attempting to illegally export goods are established in Law 9,112 of 10 October 1995 and Decree 1,861 of 12 April 1996, which control the export of sensitive goods in the nuclear, chemical, biological and missile areas. The General Coordination Office for Sensitive Goods is also responsible for requesting the production of an end-user certificate, when required, and reviewing the said document. It also participates in preparing that certificate when Brazil is required to produce one. In these cases, it is incumbent upon the General Coordination Office to ensure the fulfilment of the agreed terms by the relevant firm. Article 5 of Law 9,112 charges the Interministerial Commission for Control of Exports of Sensitive Goods with drafting, updating and publishing the Sensitive Goods Lists.

7. With regard to specific provisions for controlling the export of nuclear materials, Brazil has been a member of the Nuclear Suppliers Group since 23 May 1996. It implements the Group's guidelines and decisions with a view to ensuring that nuclear exports occur only under the appropriate safeguards, physical protection and non-proliferation conditions, and other relevant restrictions, as well as to impeding the export of relevant items which may contribute to the proliferation of nuclear weapons. The guidelines of the Nuclear Suppliers Group also seek to ensure that nuclear exports occur only for peaceful purposes and stimulate trade and international cooperation in the field of the peaceful use of nuclear energy. The export control procedures established in Law 9,112 and Decree 1,861 apply to any equipment, material or technology included and identified in the "List of Nuclear Equipment, Material and Technology" or the "List of Dual Use Equipment and Material and Related Technology", included in Directive 61 of the Secretariat for Strategic Affairs of the Presidency of the Republic, of 12 April 1996.

8. In the chemical area, the legal control instruments are contained in Decree 3,665 of 20 November 2000, which updated the "Regulations for Monitoring of Controlled Products" for products controlled by the Army (R-105) and established import and export controls (articles 177, 178, 183, 215 and 216 of R-105). Ministerial Directive 804 of 13 December 2001 published the lists of substances

related to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction subject to export controls by the Ministry of Science and Technology, while Directive 275 of 23 April 2002 extended those controls to imports.

9. In the biological area, the Interministerial Commission for Control of Exports of Sensitive Goods, in resolution 13 of 10 March 2010, approved the list of goods related to the biological field and directly related services controlled by Brazilian legislation.

10. With regard to missile technology, in addition to the controls contained in Decree 665 of 20 November 2000, the Ministry of Science and Technology's Directive 49 of 16 February 2004 charged one of the Technical Coordination Offices of the General Coordination Office for Sensitive Goods with specific responsibilities in this area.

11. The lists are revised periodically so as to conform to the Brazilian legislation in force and the recent decisions of the Nuclear Suppliers Group. The revision of the lists is the responsibility of the Interministerial Commission for Control of Exports of Sensitive Goods, pursuant to Decree 4,214 of 30 April 2002, which defines the competencies of the Interministerial Commission. In the chemical and biological areas, the Commission also meets with the Interministerial Commission for the Application of the Provisions of the Convention on the Prohibition of Chemical Weapons, in order to discuss inclusions and adjustments in the relevant control lists.

12. The prevention of entry into or transit through Brazilian territory of designated persons is enforced in accordance with the provisions of Law 6,815 of 19 August 1980. Control of cross-border movement is the responsibility of the Department of Federal Police and military authorities. Every foreign national entering Brazil has his/her data checked against the National System for Wanted and Listed Persons (SINPI). The system, available online to immigration agents, is regularly updated with data from national and international authorities, particularly INTERPOL.

13. In the exercise of its right to grant access to its territory, the Government of Brazil can make use of two procedures. If a foreign national enters the country irregularly, he/she can be deported by police authorities. If the presence of an individual in Brazilian territory is considered harmful to national security, political or social order, public tranquillity or morality and public economy, or if his/her actions render him/her undesirable in the light of national convenience and interests, he/she can be expelled. The Ministry of Justice must conduct an expulsion inquiry according to established procedures, in the course of which the foreign national is assured the right to defence. The final decision on expulsion rests with the President of the Republic.

14. With regard to the prevention of illicit trafficking in weapons of mass destruction and related materials, Brazil voluntarily joined the International Atomic Energy Agency's Illicit Trafficking Database (ITDB), having designated the National Commission on Nuclear Energy as its Point of Contact for the Database. All maritime security operations are carried out by the Brazilian Navy, in accordance with the parameters set out in the United Nations Convention on the Law of the Sea and in Law 9,537 of 11 December 1997.

15. In 1999, the Ministry of Justice undertook an initiative involving the Brazilian Intelligence Agency (Agência Brasileira de Inteligência) and other Government

agencies seeking to prevent illegal trafficking in illegal and nuclear materials in MERCOSUL (Common Market of the South). As a result of this initiative, States parties to MERCOSUL included a sixth chapter in the General Plan for Reciprocal Coordination and Cooperation for Regional Security (originally adopted at the seventeenth session of the Council of the Common Market). That chapter lists the operational and coordination activities to be undertaken in combating illicit trafficking in nuclear and radioactive materials.

16. The freezing of assets of designated persons and entities is carried out under Law 9,613 of 3 March 1998. This law criminalizes the concealment or misrepresentation of the nature, origin, location, use, movement or ownership of goods, rights or values originating directly or indirectly from illicit activities. This crime is under the purview of the Federal Judiciary, which, upon request of the Office of the Public Prosecutor or competent police authority (after due consultation of the Office of the Public Prosecutor), can also determine the apprehension of the goods, rights and values of the individual or entity involved. The Federal Judiciary can also determine the apprehension of goods, rights and values originating from crimes committed abroad, subject to the existence of a treaty or a promise of reciprocity from the requesting State. The Council for the Control of Financial Activities of the Ministry of Finance is charged with disciplining, applying administrative penalties, and receiving, examining and identifying suspected illicit activities as stipulated in Law 9,613. All financial institutions under Brazilian jurisdiction must report any suspicious financial transactions to the Council. According to Complementary Law 105 of 10 January 2001, it is the role of the Federal Judiciary to authorize the breach of banking account information confidentiality in order to allow the investigation of illicit activities.

17. Brazil reiterates its commitment to the full implementation of all Security Council resolutions, including resolutions 1718 (2006) and 1874 (2009). In this context, it reaffirms the importance of implementing the provisions of those resolutions without prejudice to the activities of the diplomatic missions in the Democratic People's Republic of Korea pursuant to the Vienna Convention on Diplomatic Relations.